



U.S. Citizenship
and Immigration
Services

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FILE:

Office: MIAMI (ORLANDO), FLORIDA

Date: JAN 18 2007

IN RE:

Applicant:



APPLICATION:

Application for Permanent Residence Pursuant to Section 245 of the Immigration and Nationality Act, 8 U.S.C. § 1255

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Acting District Director, Miami, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record reflects that the applicant is a citizen of Italy. On April 26, 2006, the Acting District Director denied the applicant's Application to Register Permanent Resident or Adjust Status (Form I-485). On May 30, 2006, the applicant, through counsel, filed a Motion to Reconsider (MTR) which was denied on June 21, 2006.

The regulation at 8 C.F.R. § 103.5(a) states in pertinent part:

(6) Appeal to AAU from Service decision made as a result of a motion. A field office decision made as a result of a motion may be applied to the AAU only if the original decision was appealable to the AAU.

The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. See DHS Delegation Number 0150.1 (effective March 1, 2003); see also 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). The AAO does not have jurisdiction over this type of Form I-485 filed under section 245 of the Immigration and Nationality Act. Since the original decision was not appealable to the AAO the appeal will be rejected.

ORDER: The appeal is rejected.